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IN THE

Supreme Court of the United States

OCTOBER TERM, 1929.

No. 948

AMERICAN FRUIT GROWERS, INC., *Petitioner*,
v.
BROGDEX COMPANY, *Respondent*.

PETITION FOR WRIT OF CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT AND BRIEF IN SUPPORT THEREOF.

R. T. M. MCCREADY,
W. B. MORTON,
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INDEX.

	Page
Petition for Writ of Certiorari	1
Summary Statement of the Matter Involved	2
The Article	3
The Process	3
Reasons Relied on for the Allowance of the Writ	4
Brief in Support of Petition	9
Fresh Fruit is not an Article of Manufacture	13
The Scientific Principle Underlying an Industrial Process has no Significance in Determining its Patentability	15
It is not Patentable to Apply an Old Process to a New Subject	18
Conclusion	20

CASES CITED.

Anheuser-Busch Brewing Assoc. v. U. S., 207 U. S. 560	5, 14
Armstrong Seatag Corp. v. Smith's Island Oyster Co., 245 Fed. 821 (C. C. A. 4th)	5
Brown v. Piper, 91 U. S. 37	7, 19
Cochrane v. Deener, 94 U. S. 780	17
Corona Cord Tire Co. v. Dovan Chemical Corp., 276 U. S. 358	6, 17
Diamond Rubber Co. v. Consolidated Tire Co., 220 U. S. 428	6, 16
Eames v. Andrews, 122 U. S. 40	6, 16
Hartranft Collector v. Weigmann, 121 U. S. 609	5
Kidd v. Pearson, 128 U. S. 20	5, 14
Lovell Mfg. Co. v. Cary, 147 U. S. 623	7, 19
Penn. R. R. Co. v. Locomotive E. S. Truck Co., 110 U. S. 940	7, 19
Riter-Conley Mfg. Co., v. Aiken, 203 Fed. 699 (C. C. A. 3rd)	3, 13
Sewall v. Jones, 91 U. S. 171	7
Tide Co. v. U. S., 171 U. S. 216	5, 14
Toch v. Zabell Damp Resisting Paint Co., 233 Fed. 393 (C. C. A. 2d)	17

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT.

To the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:

Your petitioner, American Fruit Growers, Inc., respectfully prays for a writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit to review the decision of that Court in the above entitled case filed October 7, 1929 (35 Fed. 2d, 106) (R. Vol. I, p. 705). A petition for rehearing was duly presented and denied on November 15, 1929.

Summary Statement of the Matter Involved.

In the fall of 1924 the Department of Agriculture issued a circular directed to the growers and packers of citrus fruit, advising them that by using borax in the tanks in which the fruit was washed, in the quantity of two and one-half pounds to a gallon of wash water, the fruit would be less liable to decay in transit to market. This petitioner adopted the Government recommendation in some of its packing houses, as did many other packers and shippers of fruit.

On March 10, 1925, Patent No. 1,529,461 was issued to the respondent on an application filed August 13, 1923, by Brogden and Trowbridge, the issuance of the patent, however, being unknown to your petitioner until April 13, 1926, on which date it received letters charging it with infringement of the patent. Two days later this suit was filed, the bill charging that your petitioner infringed the patent in suit as to its process claims by packing fruit according to the same procedure it had followed for years except for the addition of borax to the washing tank. The bill also charged infringement of the article claims of the patent, the alleged act of infringement being the sale of the oranges so treated, such oranges being indistinguishable from the oranges previously packed by your petitioner except for an amount of borax on the rind of the orange of such infinitesimal quantity as to be discoverable only by the most careful and accurate chemical analysis.

The District Court sustained the charge of infringement with respect both to the process and article claims, and on appeal to the Circuit Court of Appeals for the Third Circuit the decree of the lower Court was affirmed.

Claim 3 was quoted by both courts as typical of the process claims, and Claim 26 as typical of the article claims.

> 3. "In the preparation of fresh fruit for market, the process which comprises subjecting fruit to the action of an aqueous solution of borax, the fluidity, strength and temperature of the treating solution, and the duration of the treatment, being such that exposed rind or skin tissues of the fruit are effectively impregnated with borax and rendered resistant to blue mold decay, while at the same time the fruit is not scalded nor is its freshness or edibility otherwise substantially impaired."

> 26. "Fresh citrus fruit of which the rind or skin carries borax in amount that is very small but sufficient to render the fruit resistant to blue mold decay."

The Article. The Court of Appeals sustained the article claims directed to fresh citrus fruit carrying on its rind a microscopic quantity of borax (about a pound of borax to 25,000 oranges of average size) on the supposed authority of Riter-Conley Mfg. Co. vs. Aiken et al., 203 Fed. 699, C. C. A. 3, wherein a concrete building structure was held to be an article of manufacture.

The Process. As found by the District Court the use of borax and boric acid, as antiseptics and preservatives, was old and well known, the Court stating:

> "That borax and boric acid have long been known to possess antiseptic properties and long been used as preservatives of animal and vege-

> table matter is here established beyond question. They were so used both dry and in solution. The solutions were both hot and cold. The use of a hot solution of boric acid or its salts to prevent the growth of fungi or mold upon cured meats by immersing or dipping them into the solution was disclosed as early as 1879. As early as 1888 boric acid and its salts were used in packing material such as sawdust, chaff and shavings for the preservation of 'all kinds of fresh fruits during storage or their transportation to near or distant markets.' It was even found that many species of penicillium molds were more or less affected by boric acid and its salts'' (R., Vol. I, pp. 22-23).

The blue mold of the orange is one of these penicillium molds.

The Court of Appeals in sustaining the process claims accepted this finding, saying:

> ''There was doubtless prior use of borax as a preservative, but the record fairly interpreted, as the learned district judge found, clearly shows that there was no prior use of it as an inhibiting reagent for blue mold decay. * * * What the patentee did was, not to discover that borax was a good antiseptic and preservative, but to discover that borax was a good inhibiting reagent for controlling blue mold decay on fresh citrus fruit when applied as the patent directs.'' (R., Vol. II, pp. 712-713.)

Reasons Relied on for the Allowance of the Writ.

This case presents three important questions:

I. CAN A FRESH ORANGE, SOLD IN THE MARKET AS SUCH AND INDISTINGUISHABLE FROM ANY OTHER FRESH ORANGE SAVE BY CAREFUL AND PAINSTAKING CHEMICAL ANALYSIS OF ITS RIND, BE MADE THE SUBJECT OF A PATENT MONOPOLY ON THE GROUND THAT SUCH ORANGE IS AN "ARTICLE OF MANUFACTURE"?

The Circuit Court of Appeals in sustaining the article claims and holding that a fresh orange is an article of manufacture has decided an important question of Federal law which has not been, but should be, settled by this Court. So far as your petitioner is aware this Court has not heretofore construed the clause "* * * art, machine, manufacture, or composition of matter" (R. S. 4886) with respect to subject-matter in any way analogous to that presented here. The ruling of the Court of Appeals in this record is not supported by the authority on which it purports to be founded, and is contrary to the rulings of this Court and other Courts construing the expression "article of manufacture" as used in statutes relating to other branches of the law.

Kidd v. Pearson, 128 U. S. 20.
Tide Co. v. U. S., 171 U. S. 216.
Anheuser-Busch Brewing Assoc. v. U. S., 207, U. S. 560.
Hartranft Collector v. Weigmann, 121 U. S. 609.
Armstrong Seatag Corp. v. Smith's Island Oyster Co., 245 Fed. 821 (C. C. A. 4th).

II. CAN THE DISCOVERY THAT THE ACTION OF BORAX IN PRESERVING THE ORANGE FROM DECAY IS A GROWTH-INHIBITING ACTION AS DISTINGUISHED FROM A GERMICIDAL ACTION, SUSTAIN A PATENT TO AN OLD AND WELL KNOWN PROCESS OF PRESERVING ARTICLES OF FOOD BY DIPPING THEM IN A BORAX SOLUTION?

The Circuit Court of Appeals in answering this question affirmatively has decided an important question of Federal law contrary to the applicable decisions of this Court holding that the scientific principle involved in the practice of an industrial process has no bearing on the question of patentability, and that the discovery of a new principle of operation does not confer patentability on a procedure otherwise old.

Eames v. Andrews, 122 U. S., 40.
Diamond Rubber Co. v. Consolidated Tire Co., 220 U. S., 428.
Corona Cord Tire Co. v. Dovan Chemical Corp., 276 U. S. 358.

III. IS AN OLD AND WELL KNOWN PROCESS OF FOOD PRESERVATION RENDERED PATENTABLE WITH RESPECT TO A *SPECIFIC* CLASS OF FOODS BY THE SUCCESSFUL COMMERCIAL EXPLOITATION OF THE PROCESS WITH RESPECT TO SUCH FOODS?

The Circuit Court of Appeals in answering this question affirmatively has decided an important question of Federal law contrary to the applicable decision of this Court holding that the application of an old process to a new subject is not patentable.

Brown v. Piper, 91 U. S. 37.
Penn. R. R. Co. v. Locomotive E. S. Truck Co., 110 U. S. 490.
Lovell Mfg. Co. v. Cary, 147 U. S. 623.
Sewall v. Jones, 91 U. S. 171.

It is of vital importance to the fruit dealers of this country and to the public at large that the error of the Circuit Court of Appeals in sustaining the article claims be corrected by this Court, as otherwise all who deal in or use fresh fruit may become unwitting infringers of a patent covering such fruit.

It is of vital importance to the fruit growers of this country, and in particular the citrus fruit growers that the error of the Circuit Court of Appeals in sustaining the process claims be corrected by this Court. If the use of such old and well-known preservatives as borax and boric acid for preserving fresh citrus fruit can be monopolized, other old preservatives may be monopolized for other uses. To permit such an appropriation of practices for years within the public domain is to deprive the public of vested rights. It hinders rather than promotes the progress of science and useful arts and constitutes an abuse of the patent system.

WHEREFORE, your petitioner respectfully prays that a writ of certiorari be issued under the seal of this Court, directed to the United States Circuit Court of Appeals for the Third Circuit, commanding that court to certify and send to this Court on a day to be designated, a full and complete transcript of the record and all proceedings in the case entitled and numbered American Fruit Growers, Inc., Appellant, vs. Brogdex Company, Appellee, No. 3760, to the end that this cause may be reviewed and determined by this

Court; that the decree of the Circuit Court of Appeals for the Third Circuit be reversed, and that petitioner be granted such other and further relief as may seem proper.

AMERICAN FRUIT GROWERS, Inc.
By
W. B. MORTON,
R. T. M. MCCREADY,
GEORGE E. MIDDLETON,
Counsel for Petitioner.

Dated, New York City,
February 14, 1930.

BRIEF IN SUPPORT OF PETITION.

This Court will probably take judicial notice of the fact that borax and boric or boracic acid (all admitted equivalent so far as the matter here in controversy is concerned) were so widely used as food preservatives that their use was regulated by legislation in many countries about the beginning of the present century. This fact was testified to by Dr. Alsberg, former Chief of the Bureau of Chemistry, Department of Agriculture, and is not disputed.

> "It was used for many things in medicine, and had been used as a wound dressing, for its antiseptic qualities long before that time; but it was first used in food that I know of, and its use developed in Sweden, by a man of the name of Gahn, and it developed rapidly and was widely adopted, and by the '90's was so extensively used that it became a matter of very serious consideration from the standpoint of public health, because it was so widely used in all kinds of foodstuffs". (R. Vol. I, pp. 330-331)

Dr. Alsberg mentioned some of the things in which borax was used.

> "It would be difficult to give a complete list of the food in which borax was, prior to the passage of the food law, commonly used as a preservative. I can only give those that I can recall. It was widely used as a preservative in various kinds of meats, particularly in smoked and salted meats that were prepared for export. It was used in sausage meat; it was used in milk; it was used on the outside of cheeses or to impregnate the cloth with which certain types of cheese are wrapped; it was commonly used in butter, in cream, for the

preservation of oysters and lobsters, shrimp; it was used in wine, beer; it was used in the preservation of fruit juices of various kinds; it was used to help sterilizing process in canning; it was sold as a canning compound to the housewives of the country and was sold for that purpose as late as 1916, 1917 and 1918". (R. Vol. I, pp. XXX, XXX)

The patented art refers to its use for the preservation of fresh fruits:

Gahn (U. S. Patent, No. 161,766, October 14, 1874 (R. Vol. II, p. 1935), Stover (British Patent, No. 214 of 1888) (R. Vol. II, p. 1946), and Bishop (U. S. Patent No. 683,499, October 8, 1901) (R. Vol. II, p. 227).

Gahn states:

"This invention relates to a new composition by which all kinds of raw food, fruit, and other vegetable products may be preserved for a longer time, and in warm climate; and the invention consists in compounding boracic acid and alum in the proportion of about twenty parts of boracic acid and ten parts of alum.

This composition may be used in a powdered state, and then rubbed and sprinkled over layers of the substance to be preserved, or in a liquid state, and then the substances to be preserved have to be dipped or immersed into the liquid."

Stover states:

"My invention has for its object the preparation of packing material for the preservation in a cheap and convenient manner of all kinds of fresh fruits for the storing and for the transport thereof to near or distant markets, and the prevention for a reasonable time of decay or damage therein."

In making this packing material he takes sawdust, chaff, etc., and impregnates it with a solution of boracic acid or borax, dries the impregnated material and then packs his fruit therein. Among the fresh fruits specifically mentioned by Storer as subject to his treatment are oranges, lemons and limes—all citrus fruit.

Bishop states:

> "The article of food (fruit, vegetables, eggs) to be treated is first washed or bathed in a comparatively weak solution of boracic acid, which destroys any and all germs and thoroughly cleanses and renders the article wholesome. The article is then coated with gelatin, which excludes the air and prevents the entrance of atmospheric germs, thereby preventing decay. * * * The boracic acid solution is prepared by adding two ounces of commercial boracic acid to one gallon of pure filtered water."

Frank Bishop, the son of the patentee was called as a witness. He testified that a company was incorporated under the name of the Antiseptic Fruit & Egg Preserving Company to carry on the business of treating fruit and eggs under his father's patent, and that this business was carried on in San Francisco for about two years—from 1902 to 1905 (R., Vol. I, p. 218). A certified copy of the articles of incorporation of the Antiseptic Fruit & Egg Preserving Company was identified by Mr. Bishop and offered in evidence as Defendant's Exhibit No. 6 (R., Vol. II, p. 922). Mr. Bishop testified that he was personally engaged in the business, his duties being to process the articles. He was 18 or 19 years of age at the time (R., Vol. I, p. 219). The patent mentions the treatment of fruit, as well as eggs and Mr. Bishop testified that, at least, two fruits,

oranges and pears, were treated (R., Vol. I, 220). After the fruit was dipped in the boric acid solution it was dried and coated with gelatine. Mr. Bishop testified (R., Vol. I, p. 222):

> "I did the dipping. As near as I can recollect we had a sort of a wire container that we put a certain number of articles in, eggs, or fruit, and submerged into the boracic acid solution first and then we would take that out and put it on a—the eggs we would put on the table and after that we dipped them in the gelatine solution and then we had sort of little racks for them, as I remember, something like a lath that they would fit in so that they would not roll off and the fruit we did the same. We let the fruit dry and then dipped it into the gelatine and set the fruit up again to dry".

Here then we have clear and uncontradicted testimony to the effect that during the years from 1902 to 1905, a company operating in San Francisco, California, was engaged in the business of treating oranges and other fruit to preserve them and lessen decay by dipping the fruit into a solution of boric acid. Thus, Bishop not only patented his process, but demonstrated its practical utility by forming a company and commercially exploiting it. No attempt was made to cast any doubt upon Frank Bishop's testimony, and it stands unassailed.

Bishop in carrying out the process of his patent by dipping oranges and other fresh fruit in a solution of boric acid must perforce have produced the article of the article claims. But in any event fresh fruit is not an article of manufacture within the meaning of the patent statutes.

In the present case the Court negatived the force of the Bishop facts by accepting the pure conjecture of Brogden and Trowbridge that the important result in their dipping of oranges in borax solution is the sealing of cuts and scratches as against what ordinarily is called sterilizing; with the consequent inhibiting of mold growth as something distinct from what Bishop and others called preserving.

Fresh Fruit Is Not An Article of Manufacture.

The article claims were sustained by the Court of Appeals as directed to an article of manufacture. No analogous question has been passed upon by this Court in construing the patent statutes. In Riter and Conley Mfg. Co. vs. Aiken Co. *et al.*, 203 Fed. 699 (C. C. A. 3), cited by the Court of Appeals, a reinforced concrete building structure was the subject of discussion. There is no analogy between the concrete building structure passed on in that case and the fresh citrus fruit forming the subject-matter of the patent in suit.

The text writers have given general definitions of the word "Manufacture"—

Robinson on Patents, Vol. I, Sec. 183, under the heading "Manufactures, a Comprehensive Class of Inventions," says:

> "The species of inventions belonging to this class are very numerous, comprehending every article devised by man, except machinery, on the one side, and compositions and designs, upon the other."

Walker on Patents, page 12, says:

> "Whatever is made by the hand of man, and is neither of these (machine, composition of matter,

design) is a manufacture in the sense in which that word is used in the American patent law."

And Curtis on Patents, Sec. 5, cites Hornblower vs. Boulton, 8 Durnford & East, 98, where Lord Kenyon said:

> "I have no doubt this patent is for a manufacture which *I understand to be something made by the hands of man*".

Although this Court has not passed on the patentability of natural products as articles of manufacture, it has had occasion to define the term "manufacture" in other situations.

In tariff taxation, as well as commercial and bankruptcy cases, the word "manufacture" has been accorded the same meaning. Thus in Kidd vs. Pearson, 128 U. S., 20, this Court said:

> "Manufacture is transformation—the fashioning of raw materials into a change of form for use".

In Tide Co. vs. U. S., 171 U. S., 216, this Court said:

> "The primary meaning of the words 'manufacture' is something made by hand as distinguished from a natural growth; but, as machinery has largely supplanted this primitive method, the word is ordinarily used to denote an article upon the material of which labor has been expended to make the finished product".

In Anheuser-Busch Brewing Association vs. United States, 207 U. S., 560, the Court said:

"In opposition to the judgment of the court of claims counsel have submitted many definitions of 'manufacture', both as a noun and a verb, which, however applicable to the cases in which they were used, would be, we think, extended too far if made to cover the treatment detailed in finding 3 or to the corks after the treatment. The words of the statute are indeed so familiar in use and of meaning that they are confused by attempts at definition. Their first sense as used is fabrication or composition—a new article is produced of which the imported material constitutes an ingredient or part. When we go further than this in explanation we are involved in refinements and in impracticable niceties. Manufacture implies a change, but every change is not manufacture, and yet every change in an article is the result of treatment, labor, and manipulation. But something more is necessary, as set forth and illustrated in Hartranft vs. Weigmann, 121 U. S., 609, 30 L. Ed., 1012, 7 Sup. Ct. Rep., 1240. There must be transformation; a new and different article must emerge, 'having a distinctive name, character, or use.' This cannot be said of the corks in question. A cork put through the claimant's process is still a cork."

Certainly there is nothing about an orange with an insignificant quantity of borax adhering to its surface that brings it within these definitions. It is not in any sense of the word "something made by hand as distinguished from a natural growth". To the public it is a natural growth, pure, fresh and unadulterated.

The Scientific Principle Underlying an Industrial Process Has No Significance in Determining Its Patentability.

The Court of Appeals in sustaining this patent notwithstanding the prior art, said:

> "What the patentee did was, not to discover that borax was a good intiseptic and preservative, but to discover that borax was a good *inhibiting* reagent for controlling blue mold decay on fresh citrus fruit when applied as the patent directs." (Italics ours.) (R. Vol. I, p. 713.)

This was an error, even assuming that the patentees did in fact make the discovery credited to them. This Court has on numerous occasions held that the scientific principle underlying an industrial process has no significance in determining its patentability.

In Eames v. Andrews, 122 U. S. 40, this Court quoted with approval the following statement by Mr. Justice Blatchford in Andrews v. Cross, 19, Blatchford 294:

> "It may be that the inventor did not know what the scientific principle was, or that, knowing it, he omitted, from accident or design, to set it forth. That does not vitiate the patent.
>
> * * * * * * * * *
>
> An inventor may be ignorant of the scientific principle, or he may think he knows it and yet be uncertain, or he may be confident as to what it is, and others may think differently. All this is immaterial, if by the specification the thing to be done is so set forth that it can be reproduced."

The same principle was again stated in Diamond Rubber Co. v. Consolidated Tire Co., 220 U. S. 428:

> "And how can it take from his merit that he may not know all of the forces which he has brought into operation? It is certainly not necessary that he understand or be able to state the scientific principles underlying his invention, and it is immaterial whether he can stand a successful examination as to the speculative ideas involved."

And again in the very recent case of Corona Cord Tire Company v. Dovan Chemical Corporation, 276 U. S., 358, Mr. Chief Justice Taft said:

> "Nor, on the other hand, does it minimize or affect the priority of completed discovery by some one else before Weiss that the prior discoverer may not have perceived and stated all the advantages of an earlier use of D. P. G. as an accelerator.
>
> Judge Hough, of the Second Circuit, truly said, therefore, that this patent meant, condensed in one sentence: 'I claim the use of D. P. G. as an accelerator, because I was the first person who observed its efficacy for that purpose.'"

In Toch v. Zibell Damp-Resisting Paint Co., 233 Fed. 993, the Circuit Court of Appeals for the Second Circuit in applying Mr. Justice Blatchford's holding in Andrews v. Cross, *supra,* sums up petitioner's position so aptly that we take the liberty of quoting it:

> "A long line of authorities shows that such is a well-established principle in the law. And if it is not necessary in order to sustain a patent that the inventor should understand the scientific principle which underlies his invention, it is also not necessary in order to invalidate the patent to show that one who made use of the same process to accomplish the same result prior to the patent understood the scientific principle."

A process in the eyes of the patent law consists in "a mode of treatment of certain materials to produce a given result. It is an act or a series of acts, performed upon the subject-matter, to be transformed and reduced to a different state or thing." Cochrane v. Deener, 94 U. S. 780.

One common method of using borax as a preservative is to dip the article to be preserved in the borax solution. That process is not altered by discovering in greater detail and accuracy the action of the borax on the bacteria. If borax *inhibits* blue mold decay when applied to fresh fruit as Brogden and Trowbridge direct, it just as surely inhibited that decay when applied to fresh fruit as Gahn and Bishop and Storer directed.

Invention is not a matter of mere words, and patents should not be granted to those who only *explain* how old things operate.

The Court of Appeals' opinion also states:

> "The patentees proceeded upon a different theory. It was their idea not to destroy spores, but by means of antiseptic borax solution seal the broken places in the citrus rind that had been punctured and thus close to the spores avenues through which they entered the fruit. The borax solution thus inhibits rather than kills the spores." (R. Vol. I, p. 712.)

This theory of the effect of the borax is a mere assertion of the patentees not supported by the evidence and probably not capable of scientific demonstration. But whether right or wrong, it is a mere statement of theory as to what happens in carrying out the old preserving process of dipping the article of food into the borax solution. The fact that the prior workers in the art may have erroneously believed that the borax killed the mold spores is of no significance.

It is Not Patentable to Apply an Old Process to a New Subject.

The Court of Appeals' ruling as to the process claims was also in error because at the most the pat-

ented process was nothing more than the application of an old process to a new subject. This Court has repeatedly held that this is not invention.

In Brown vs. Piper, 91 U. S., 37, it was said:

> "The answer is that this was simply the application by the patentee of an old process to a new subject, without any exercise of the inventive faculty and without the development of any idea which can be deemed new or original in the sense of the patent law. The thing was within the circle of what was well known before, and belonged to the public. No one could lawfully appropriate it to himself and exclude others from using it in any usual way for any purpose to which it may be desired to apply it. This is fatal to the patent."

In Pennsylvania R. R. Co. vs. Locomotive E. S. Truck Co., 110 U. S., 490, the Court stated the rule of law to be as follows:

> "It is settled by many decisions of this Court, which it is unnecessary to quote from or refer to in detail, that the application of an old process or machine to a similar or analogous subject, with no change in the manner of application, and no result substantially distinct in its nature will not sustain a patent, even if the new form of result has not before been contemplated." (Citing numerous cases.)

The statement of the law in Lovell Mfg. Co. vs. Cary, 147 U. S., 623, is particularly applicable:

> "But it does not amount to invention to discover that an old process is better in its results when applied to a new working, than would have been expected, the difference between its prior working and the new working being only one of

degree and not one of kind. It has been often held that the mere fact that one who uses a patented process finds it applicable to more extended use than has been perceived by the patentee, is not a defense to a charge of infringement/ It follows necessarily that the public cannot be deprived of an old process because some one has discovered that it is capable of producing a better result, or has a wider range of use than was before known."

CONCLUSION.

The public has rights which cannot be ignored, and certainly the right to use borax and boric acid as antiseptics and preservatives is one of them. Three generations of housewives have been aware of the preservative qualities of borax. More than three generations of pharmacists have understood the antiseptic properties of boric acid. Twenty years or more ago the use of borax as a food preservative became so widespread and notorious that it became necessary to regulate this use by statute.

There are certain substances of well known utility within certain fields with respect to the production, care and distribution of foods, the most fundamental sphere of industry. No restriction upon such uses should be permitted apart from a clear matter of invention without the sanction of this Court. And certainly the sanction of this Court should be had before every fruit and vegetable product of every farm in the land can be brought under the shadow of this patent so that every such farm shipment will be burdened with an inquiry as to whether it is not in fact a shipment of manufactured articles, with a possible law suit in every barrel and every crate.

We submit that the petition in this case is based

upon questions of vital and far reaching public importance that have been decided contrary to principles laid down by this Court as guides in protecting the public against unwarranted patent monopoly. These questions have important bearing upon the general public interest in the following particulars:

First: The principle involved in the decision that in the field of food preservation authority may be granted to take from the public the right to use a well known preservative (borax) in a well known way (by application in solution) to an end for which its use was well known and practiced (the prevention of mold).

Second: The principle involved in the decision that an orange or grape fruit or other fruit or vegetable, such as a tomato, when dipped in a borax solution becomes a manufactured article covered by patent, so that all dealers in and consumers of fruits and vegetables may be burdened with notice that they buy, sell and use at their peril any such fruit or vegetable and are liable to suit and penalties if found to have bought, sold or used fruits or vegetables that without license have been dipped in a borax solution.

Respectfully submitted,

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